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TRADE AND DEVELOPMENT BOARD
Ad Hoc Working Group on Comparative
Experiences with Privatization
Fourth session
Geneva, 5 April 1994
Item 6 of the provisional agenda

ADOPTION OF THE REPORT OF THE AD HOC WORKING GROUP
TO THE TRADE AND DEVELOPMENT BOARD

Draft final report of the Ad Hoc Working Group on Comparative
Experiences with Privatization

Text submitted by the Chairman of the Ad Hoc Working Group

CONTENTS

	<u>Paragraphs</u>
I. INTRODUCTION	1 - 10
II. AN ASSESSMENT	11 - 14
A. Status of implementation of the work programme	11
B. Assessment of the methods of work and of results achieved	12 - 14
III. CONCLUSIONS AND RECOMMENDATIONS	15 - 19
A. Dissemination of the results	15
B. Technical and other forms of assistance	16 - 18
C. Future work	19

Annexes:

- I. Terms of reference
- II. List of country submissions and panellist papers
- III. Reports of the Ad Hoc Working Group and documents prepared
by the secretariat
- IV. List of panellists

I. INTRODUCTION

1. The Ad Hoc Working Group on Comparative Experiences with Privatization was established by the Trade and Development Board in its decision 398 (XXXVIII) in accordance with paragraph 79 of the Cartagena Commitment. In conformity with its terms of reference, as adopted by the Board (see annex I), the Ad Hoc Working Group has been entrusted with the task of reviewing the experiences of countries with privatization, considering medium- and long-term objectives of privatization processes and factors pertinent to the design and implementation of privatization programmes, elaborating basic elements for consideration in formulating privatization programmes and plans and serving as an ad hoc forum for the presentation of national programmes and plans for privatization as well as for the exchange and dissemination of relevant information.

2. The Ad Hoc Working Group has held four sessions over a period of 16 months as follows: first session, 30 November - 4 December 1992, second session, 7 - 11 June 1993, third session, 29 November - 3 December 1993 and the fourth session, 5 - 8 April 1994.

3. The Ad Hoc Working Group has benefited from the active participation of representatives and experts from both its 51 members and 39 observers. The member countries are:

Algeria, Argentina, Bangladesh, Belgium, Brazil, Chile, China, Colombia, Côte d'Ivoire, Cuba, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Ghana, Greece, Guinea, Honduras, Hungary, Iran (Islamic Republic of), Iraq, Italy, Japan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Myanmar, Netherlands, Nigeria, Norway, Pakistan, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, Sri Lanka, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Zambia and Zimbabwe.

4. The observers are: Afghanistan, Armenia, Australia, Austria, Bhutan, Bolivia, Bulgaria, Canada, Cameroon, Democratic People's Republic of Korea, Ecuador, El Salvador, Ethiopia, India, Indonesia, Ireland, Israel, Jordan, Lithuania, Madagascar, Mozambique, Nepal, New Zealand, Niger, Panama, Paraguay, Peru, Philippines, Qatar, Singapore, Slovenia, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, United Republic of Tanzania, Uruguay, Venezuela and Viet Nam.

5. The Ad Hoc Working Group has also benefited from the presence and participation of experts from specialized agencies such as the World Bank, the International Monetary Fund, the International Labour Office, United Nations Industrial Development Organization, United Nations Development Programme, the World Health Organization; intergovernmental organizations such as the European Commission, Organization of African Unity, OECD, Commonwealth Secretariat and Asian-African Legal Consultative Committee; non-governmental organizations, including the International Chamber of Commerce, International Confederation of Free Trade Unions, Public Services International, International Co-operative Alliance, International Road Transport Union, World Assembly of Small and Medium Enterprises, World Federation of Trade Unions and the World Federation of United Nations Associations and the International Air Transport Association.

6. Country studies or presentations on privatization have been submitted by Argentina, Australia, Bulgaria, Brazil, Canada, China, Colombia, the Czech Republic, Egypt, Fiji, Finland, France, Germany, Ghana, Greece, Hungary, Indonesia, Israel, Jamaica, Japan, Jordan, Lithuania, Malaysia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Pakistan, Peru, the Philippines, Poland, Portugal, Republic of Korea, Romania, Senegal, Slovakia, Slovenia, Sri Lanka, Sweden, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Venezuela. In addition, the Government of Norway has submitted a paper prepared by Norwegian consultants on the topic of "Privatization and the Environment". Further the experts serving as panellists in the work of the Ad Hoc Working Group have submitted written contributions. A full list of the country contributions and papers by panellists is given in annex II.

7. At its first session (30 November to 4 December 1992) the Working Group focused on various aspects of the design, implementation and results of privatization programmes including inter alia the role of the State, the effects of the macroeconomic environment on privatization, privatization objectives and strategy, the selection of enterprises for divestment and the results of privatization in various countries. It also adopted the work programme of the Ad Hoc Working Group.
8. At its second session (7 June - 11 June 1993) the Working Group examined in depth the objectives of privatization as a part of an overall strategy of fostering private entrepreneurship and private sector development, and their relationship to the techniques and financing of privatization. The exchanges also examined various non-divestiture and divestiture options for privatization, the promotion of transparency and accountability in the privatization process, public enterprise restructuring prior to divestment, valuation, underwriting and the different aspects and sources of financing for privatization transactions.
9. At its third session (29 November - 3 December 1993) the Working Group discussed in depth the complex issues of competition and regulation of privatized monopolies, examining subjects such as economic regulation, price and profit caps, interconnection to carrier networks of public utilities, private development of infrastructure and competitive bidding. It also extensively discussed the social impact of privatization and socially related support measures and, in this connection, the incorporation of social considerations into privatization strategies, the impact of privatization on conditions of employment and job security, the provision of infrastructure and public services and consumer welfare, as well as social support measures, including compensation measures, training and retraining, job counselling, assistance for relocation and job creation through the promotion of entrepreneurship and enterprise development.
10. At its fourth session (5 April - 8 April 1994) the Working Group debated the environmental aspects of privatization and the privatization of pension funds and examined the results of the Ad Hoc Working Group's efforts over the past 16 months. It commended the secretariat for preparing a set of indicative elements for consideration in the formulation of privatization programmes (TD/B/WG.3/7/14, to be annexed to this report), drawing on the work of the Ad Hoc Working Group.

II. AN ASSESSMENT

A. Status of implementation of the work programme

11. Of the areas indicated in the work programme adopted by the Ad Hoc Working Group a number of issues remain to be considered. These include:

[To be completed as appropriate.]

In addition, a number of additional topics have been suggested by national experts for further consideration, including ...

[To be completed as appropriate.]

B. Assessment of the methods of work and of results achieved

12. The format chosen for the Ad Hoc Working Group's sessions has been extremely successful, focusing on informal meetings, panel-led discussions on specific key topics and exchanges among national experts, including those participating as panellists. The panellists, serving in their private capacities, in addition to submitting valuable written contributions, brought their wide expertise and rich practical experiences with privatization to bear on the discussions (see annex IV for full list of panellists). The panellists, separately selected for each topic, were drawn from all geographical regions and a wide diversity of country situations. This formula of an informal in-depth dialogue assisted by expert panellists has contributed to a very constructive and polemic-free environment, setting a reflective and positive tone for all the sessions.

13. In order to assist the work of the Ad Hoc Working Group, the secretariat has prepared a number of excellent reports and issues papers, including "Design, implementation and results of privatization programmes: a cross-country review of national experiences", based on the 47 country studies and presentations; "In-depth consideration of (i) Competition and the regulation of privatized monopolies and (ii) Social impact and socially-related support measures"; "Issues relating to (a) privatization and the environment and (b) the privatization of pension funds"; and "Indicative elements for consideration in formulating privatization programmes". Furthermore, the secretariat has produced three publications of considerable practical value: a "Directory of national focal points dealing with privatization"; an annotated bibliography entitled "Public enterprise restructuring and privatization - a survey of recent literature"; and a document entitled "Activities undertaken by international organizations in the field of privatization", based on replies to an UNCTAD questionnaire. Moreover the secretariat has prepared extensive summaries of the in-depth discussions and exchanges conducted by the Ad Hoc Working Group. The summaries, which have been well received by the participants, are reproduced in the reports of the Ad Hoc Working Group. As regards the summary of the discussion on the social impact of privatization and socially related support measures, it has been considered by national experts as the first comprehensive statement of the issues involved. Further, it has been suggested that the summary, together with other relevant documents, should be

sent as a contribution to the World Summit on Social Development in 1995. Annex III gives a full list of the documents prepared by the secretariat and the reports of the Ad Hoc Working Group.

14. The rich and constructive discussions, extensive and illuminating country presentations, excellent technical papers submitted by the panellists and high-quality substantive documentation prepared by the secretariat have all contributed to the achievement of very positive and concrete results by the Ad Hoc Working Group. The conclusions reached on a wide range of issues, as well as the elements drawn from the lessons learned and insights gained from national privatization experiences, have proved invaluable in identifying the measures which work in the privatization process and the factors which can make a real difference in enhancing the design, implementation and results of privatization programmes. It is encouraging to note that the extensive documentation generated by the work of the Ad Hoc Working Group and the results achieved have already been used by countries, for example in research work and in the formulation of policy papers. In an area as complex as privatization, the importance of these accomplishments cannot be over-emphasized.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Dissemination of the results

15. The Ad Hoc Working Group decides that the document "Indicative elements for consideration in formulating privatization programmes" (TD/B/WG.3/...) should be circulated to Governments and privatization agencies for their use, as appropriate, taking into account their particular country situations. The Ad Hoc Working Group further decides that its reports should be sent to the World Summit on Social Development for its consideration, as appropriate.

B. Technical and other forms of assistance

16. The Ad Hoc Working Group notes from the secretariat's report on "Design, implementation and results of privatization programmes: a cross-country review of national experiences" (TD/B/WG.3/...) and the national presentations that both multilateral financial institutions and bilateral donor agencies have provided various types of financial and technical assistance to developing countries and countries in transition in support of activities at various stages of the privatization process. In this connection, the potential role of small and medium-sized enterprises in terms of promoting economic dynamism and employment creation is of special importance. The Ad Hoc Working Group recommends that the donor community consider strengthening its assistance in order to respond effectively to the needs of these countries.

17. The Ad Hoc Working Group recommends that technical assistance be strengthened in the following areas:

[To be completed as appropriate.]

18. The Ad Hoc Working Group notes the initiative of the UNCTAD secretariat to strengthen its technical cooperation activities in the area of privatization, taking into account requests of developing and transitional-economy countries, in order to disseminate the concrete results achieved by the Ad Hoc Working Group, and invites potential donors to consider favourably requests by the UNCTAD secretariat for the funding of such activities.

C. Future work

19. The Ad Hoc Working Group recognizes that there is a need to pursue further work in the following areas: and makes the following recommendations to the Board: [To be completed as appropriate.]

Annex I

TERMS OF REFERENCE

Ad Hoc Working Group on Comparative Experiences with Privatization

Pursuant to General Assembly resolution 1995 (XIX), as amended, and to A New Partnership for Development: the Cartagena Commitment adopted at the eighth session of the United Nations Conference on Trade and Development, an Ad Hoc Working Group on Comparative Experiences with Privatization is established by the Trade and Development Board with the following terms of reference:

1. To review the experiences of countries with privatization.
2. To consider medium- and long-term objectives of privatization processes taking into account relevant factors, including the diversity of country situations, in order to promote greater efficiency in economic activities, more effective allocation of resources and the dynamism and competitiveness through restructuring of enterprises and/or economic sectors; employment creation; social benefit distribution and economic development in general.
3. To consider factors pertinent to the design and implementation of privatization programmes, such as, inter alia, overall development of the private sector; the role of the State, in particular in determining the legal and regulatory framework for privatization, and the scale and pace of the process; criteria for selecting enterprises to be privatized; the relationship between privatization and domestic financial markets; foreign investment; infrastructure; administrative capacity; patterns of ownership and control; corporate performance and competition; employee motivation; public awareness and support; mechanisms for employment creation and, in general, relationships with social development programmes.
4. To elaborate, as possible guidelines for policy makers, basic elements for consideration in formulating privatization programmes and plans.
5. To serve as a forum for the presentation of national programmes and plans for privatization as well as for the exchange and dissemination of relevant information. In that connection the Ad Hoc Working Group should seek from interested countries the presentation of information on their national experiences and draw on the experience and expertise of non-governmental actors, particularly enterprises, trade unions and the academic community.
6. The work of the Working Group should follow a progressive sequence in accordance with paragraphs 49 to 60 of the Cartagena Commitment. In line with what is set out in the Cartagena Commitment, particularly paragraphs 18 and 47, the Working Group should be inspired by the need to promote international consensus on principles and strategies for policy action at the national and international levels to enhance the development prospects of member States, particularly those of developing countries. It should provide a forum for the exchange of experiences among member States so as to enable

them to draw appropriate lessons for the formulation and implementation of policies at the national and international levels and for international economic cooperation.

7. In its work, the Working Group should take due account of the diversity of country situations and experiences. It may base its work on country reviews by the secretariat and seek from relevant countries the presentation of studies on their national experiences. It could also, depending on the issue, seek the participation of, and draw on the experience and expertise of, non-governmental actors, particularly enterprises, trade unions, the academic community and non-governmental organizations as well as representatives of international institutions.

8. The Working Group should identify for consideration areas in which technical cooperation should be strengthened.

9. The work of the Working Group should be coordinated with that of other Committees and Working Groups.

10. The work of the Working Group should complement that of other international bodies while seeking to ensure that no duplication occurs.

11. The Working Group may recommend for the consideration of the Board the establishment of expert groups.

12. The Working Group shall complete its work within two years of the adoption of its terms of reference. It may submit interim reports and shall submit a final report on the results of its work to the Trade and Development Board.

13. The frequency of sessions of the Working Group is to be decided by the Board in accordance with the existing procedures concerning the calendar of meetings. The duration of the sessions should be of five days or less.

Annex II

LIST OF COUNTRY SUBMISSIONS AND PANELLIST PAPERS

List of country presentations:SymbolsLanguages

UNCTAD/DSD/Misc.9

Presentation of national
experiences with privatization:

English/French

Argentina
Czech Republic
France
Germany
Greece
Hungary
Korea, Republic of
Malaysia
Poland
Senegal
Tunisia
Tanzania, United Republic of
United States of America

TD/B/WG.3/Misc.41

Country presentations and statements:

China	English
Israel	English
Japan (JNR Reform)	English
Slovenia	English
Romania	English
United Kingdom (The UK experience of telecommunications regulation)	English

TD/B/WG.3/Misc.2

Venezuela

English/Spanish

TD/B/WG.3/Misc.3

Jordan

Arabic/English

TD/B/WG.3/Misc.4

Peru

English/Spanish

TD/B/WG.3/Misc.5

Colombia

English/Spanish

" " /Add.1

"

English/Spanish

"	"	/Rev.1	"	Spanish
TD/B/WG.3/Misc.6	Australia		English	
TD/B/WG.3/Misc.7	Bulgaria		English	
TD/B/WG.3/Misc.8	Finland		English	
TD/B/WG.3/Misc.9	Germany		English	
"	"	/Add.1	"	
TD/B/WG.3/Misc.10	Indonesia		English	
TD/B/WG.3/Misc.11	Jamaica		English	
TD/B/WG.3/Misc.12	Lithuania		English	
TD/B/WG.3/Misc.13	Morocco		English	
TD/B/WG.3/Misc.14	Netherlands			English
"	"	/Add.1	"	
TD/B/WG.3/Misc.15	New Zealand			English
TD/B/WG.3/Misc.16	Poland	English		
TD/B/WG.3/Misc.17	Portugal	English		
TD/B/WG.3/Misc.18	Thailand	English		
TD/B/WG.3/Misc.19	Turkey	English		
TD/B/WG.3/Misc.20	United Kingdom			English
TD/B/WG.3/Misc.21	France	French		
TD/B/WG.3/Misc.22	Niger	French		
TD/B/WG.3/Misc.24	Sri Lanka	English		
TD/B/WG.3/Misc.25	Ghana	English		
TD/B/WG.3/Misc.26	Nigeria		English	
TD/B/WG.3/Misc.27	Republic of Korea			English
TD/B/WG.3/Misc.28	Egypt		English	
TD/B/WG.3/Misc.29	Brazil		English	
"	"	/Add.1	"	
TD/B/WG.3/Misc.31	United States of America		English	
TD/B/WG.3/Misc.32	Greece		English	
TD/B/WG.3/Misc.33	The Philippines			English
TD/B/WG.3/Misc.34	Pakistan		English	
TD/B/WG.3/Misc.35	Sweden		English	
TD/B/WG.3/Misc.37	Slovakia		English	
TD/B/WG.3/Misc.38	Canada		English	
TD/B/WG.3/Misc.40	Fiji		English	
TD/B/WG.3/Misc.39	Norway		English	

(Privatization and the
environment)

List of panellists papersTechniques and financing of privatization

Amb.Dr. J.C. Sanchez Arnau	Argentina	Privatization in Argentina
Mr. Thomas Janicki	Germany	Techniques and financing of privatization - some basic observations from the German perspective
Mr. Tissa J.M. Jayasinghe	Sri Lanka	Techniques and financing of privatization: Guidelines
Dr. G. F. Mbowe	Tanzania	Transitional support to reforming enterprises
Mr. Neil Murdoch	United States	Techniques and financing of privatization
Dr. Alexandre D. Radygin	Russian Federation	Russian model of privatization

Competition and regulation

Ms. Khamarzan Ahmed Meah	Malaysia	Competition and regulation
Mr. Adrian van der Ven	Netherlands	Competition and the regulation of privatized and corporatized monopolies in the Netherlands
Mr. James A. Waddell	United States	Infrastructure privatization
Mr. Pierre Guislain	World Bank	Divestiture of State enterprises - an overview of the legal framework
Mr. Andrzej Szablewski	Poland	Restructuring and regulatory reform in the Polish energy sector
Mr. Lucas Danho	Côte d'Ivoire	Privatisation du service de télécommunications en Côte d'Ivoire - Problèmes et approches de solutions

Social aspects of privatization

Mr. Brendan Martin	ICFTU/PSI	Towards a new privatization paradigm
Mr. Tissa J.M. Jayasinghe	Sri Lanka	The social impact of privatization
Mr. Jorge Botero	Acción	Impact of non-governmental International organizations on the development of informal economic sectors in Latin America

Annex III

REPORTS OF THE AD HOC WORKING GROUP AND DOCUMENTS PREPARED BY THE SECRETARIAT

Symbols

1. Reports of the Ad Hoc Working Group on Comparative Experiences with Privatization:

TD/B/WG.3/5
A/C/E/F/R/S

Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its first session

TD/B/WG.3/9
A/C/E/F/R/S

Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its second session

TD/B/WG.3/13
A/C/E/F/R/S

Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its third session

2. Reports and notes by the UNCTAD secretariat:

TD/B/WG.3/7
& Rev.1
& Rev.2
A/C/E/F/R/S

Design, implementation and results of privatization programmes: a cross-country review of national experiences
Report by the UNCTAD secretariat

TD/B/WG.3/11
A/C/E/F/R/S

In-depth consideration of:

- (i) Competition and the regulation of privatized monopolies
- (ii) Social impact and socially related support measures

Issues paper by the UNCTAD secretariat

TD/B/WG.3/7/Rev 2/Add.1
A/C/E/F/R/S

Issues relating to:

- (a) privatization and the environment
- (b) privatization of pension funds

Note by the UNCTAD secretariat

3. Background documents:

UNCTAD/DSD/Misc.6
English

Public enterprise restructuring and
privatization - an annotated bibliography:
Prepared by the UNCTAD secretariat

UNCTAD/DSD/Misc.8/Rev.2
English

Directory of national focal points dealing
with privatization:
Prepared by the UNCTAD secretariat

UNCTAD/DSD/Misc.23/Add.1
English

Activities undertaken by international
organizations in the field of privatization;
Replies to the UNCTAD questionnaire

UNCTAD/DSD/Misc.11
English

Public enterprise restructuring and
privatization - a survey of recent literature
Prepared by the UNCTAD secretariat

Annex IV

LIST OF PANELLISTS

Second session (7-11 June 1993):

Embajador Dr. Juan Carlos Sanchez Arnau
Subsecretario de Privatizaciones
Ministerio de Economica y Obras Publicas
Hipolito Yrigoyen 250
Piso No. 9, Oficina 935
Buenos Aires, Argentina

Mr. Thomas Janicki
Head, Competition Policy Division
Federal Ministry of Economics
Villemombier Str. 76
D-5300 Bonn, Germany

Mr. Tissa J.M. Jayasinghe
Director, Commercialization Division
Ministry of Finance
Room No. 55, Ground Floor
Galle Face Secretariat
Colombo 1, Sri Lanka

Dr. G.F. Mbowe
Chairman, Presidential Commission on Privatization
Ministry of Finance
Dar-es-Salaam, Tanzania

Mr. Neil Murdoch
Senior Manager
Price Waterhouse
International Privatization Group
1801 K St. N.W.
Washington, D.C. 20006, USA

Dr. Alexandre D. Radygin

Chief of Privatization Division
Institute for Economy in Transition
5 Ogarev Street
103009 Moscow
Russian Federation

Third session (29 November - 3 December 1993):

Panel on competition and regulation:

Amb. Dr. Juan Carlos Sanchez Arnau
Chief of Advisory Staff,
Ministry of Economy
Buenos Aires, Argentina

M. Lucas Danho
Vice-Président
Comité de privatisation et de restructuration du secteur parapublic
Coordinateur de la Cellule Technique
Cabinet du Premier Ministre
Abidjan, Côte d'Ivoire

Ms. Khamarzan Ahmed Meah
Economic Planning Unit
Prime Minister's Department
Jalan Dato Onn
50502 Kuala Lumpur, Malaysia

Mr. Andrzej Szablewski
Anti-monopoly Office
Place Powstancow
00-950 Warsaw 1, Poland

Mr. Adrian van der Ven
Ministry of Finance
Korte Voorhout 7
Postbus 20201
2500 EE Den Haag, Netherlands

Mr. James A. Waddell
Executive Director
Price Waterhouse
International Privatization Group
1801 K St. N.W.
Washington, D.C. 20006, USA

Panel on social support measures:

Dr. Zoltan Roman
President
Hungarian Small Business Association
1021 Szeher UT 7
Budapest, Hungary

Mr. Tissa J.M. Jayasinghe
Director, Commercialization Division
Ministry of Finance
Room No. 55, Ground Floor
Galle Face Secretariat
Colombo 1, Sri Lanka

M. Bechir Essid
Directeur chargé de la Privatisation
Direction des entreprises publiques
Premier Ministère

Mr. Pierre Guislain
World Bank

Senior Private Sector Development Specialist
Washington, USA

Mr. Rolph van der Hoeven
Project Manager
International Labour Office
Interdepartmental Project on Employment and Structural Adjustment
4, route des Morillons
1211 Genève 22, Switzerland

Mr. Brendan Martin
(for ICFTU/PSI)
Director
Public World
5 - 11 Worship Street
London EC2A 2BH, United Kingdom

Mr. Jorge Botero
(for Accion Internacional)
Fundacion Tierra Nueva
Calle 92, 7 - 30
Bogota, Colombia

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Agenda item 6

ADOPTION OF THE REPORT OF THE AD HOC WORKING GROUP
TO THE TRADE AND DEVELOPMENT BOARD

Draft final report of the Ad Hoc Working Group on Comparative
Experiences with the Privatization

Amendements by the Ad Hoc Working Group

I. INTRODUCTION

Delete paragraphs 3,4 and 5

Old paragraph 6 (new para. 3), to list of countries insert Croatia, Nepal, Norway

Old paragraph 6 (new para. 3), delete the second sentence

In addition and the Environment.

Old paragraph 7 (new para. 4), at the end of the paragraph add A summary of the
Chairman's concluding statement is contained in TD/B/WG.3/5.

Old paragraph 8 (new para. 5), at the end of the paragraph add Summaries of the
discussions on the techniques and financing of privatization are reproduced in
TD/B/WG.3/9.

GE.94-51397

Old paragraph 9 (new para. 6), at the end of the paragraph add

A proposal was made to improve the public awareness and information aspects of the privatization process. Summaries of the discussions on competition and regulation as well as on the social impact of privatization are contained in TD/B/WG.3/13.

Old paragraph 10 (new para. 7), replace the last sentence by the following: It adopted a set of indicative elements for consideration in the formulation of privatization programmes, reproduced in annex I to this report. Summaries of the discussions on privatisation and the environment and the privatisation of pension funds will be reproduced in the report of the fourth session.

II. AN ASSESSMENT

Old paragraph 11 (new para. 8), replace present text by the following:

8. The Ad Hoc Working Group has successfully completed its work in line with its terms of reference. However, it recognizes there are a number of issues which deserve a more in-depth analysis and consideration. (In this connection, see new paragraph 17).

Old paragraph 14 (new para. 11), delete conclusions reached on a wide range of issues as well as the

The sentence now begins The elements drawn from lessons learned ...

III. CONCLUSIONS AND RECOMMENDATIONS

Delete headings

- A. Dissemination of the results
- B. Technical and other forms of assistance
- C. Future work

Old paragraph 15 (new para. 12), replace existing text by the following:

12. Drawing on its work, the Ad Hoc Working Group has adopted the indicative elements for consideration in formulating privatization programmes, as reproduced in annex I to this report. These elements cover the following main topics: general considerations relating to privatization; forms of privatization including non-

divestiture and divestiture options and the privatization of infrastructure; framework for privatization relating to the supportive environment, legal framework and machinery for privatization and competition and regulation; and social impact and support measures. The Ad Hoc Working Group recommends that the indicative elements should be circulated to Governments and privatization agencies for their use, as appropriate, taking into account their particular country situation.

New paragraph 13

13. The Ad Hoc Working Group recommends that the reports on all four sessions, as well as its final report, should be sent to the World Summit on Social Development in 1995 for its consideration, as appropriate.

Old paragraph 16 (new para. 14), delete penultimate sentence In this connection..... is of special importance.

Old paragraph 16 (new para. 14), for considers strengthening read continue

Old paragraph 17 (new para. 15) replace with the following text:

15. The Ad Hoc Working Group recommends that technical assistance, given in consultation with the recipient countries, be continued and strengthened in the following areas:

- Regulatory framework and institutions to deal with privatization and post-privatization issues;
- Public awareness campaigns;
- Valuation techniques, financial consultancy, e.g. in bidding processes;
- Strengthening the legal, financial and training framework for private sector development, including the development of micro, small and medium-sized enterprises;
- Social implications of privatization, including employment creation policies, training and human resources development.

The Ad Hoc Working Group recognizes the importance of the use of local technical expertise, where appropriate. It further recommends that due consideration should be given to the development of a coherent approach and of cooperation among the international bodies concerned (MFIs, specialised agencies and other UN bodies and international NGOs)."

Old paragraph 18 becomes new para. 16

Old paragraph 19 (new para. 17) should read

17. The Ad Hoc Working Group recommends that further analysis and consideration of the following issues be undertaken by UNCTAD or, as appropriate, by other international organizations:

- (a) Post-privatization policy; case studies of individual privatized ~~firms~~
 - (i) Share registry/shareholder relations
 - (ii) Corporate governance
 - (iii) Performance criteria, monitoring and evaluation
- (b) Infrastructure privatization
 - (i) Build-Own-Operate/Transfer
 - (ii) Private provision of public and social services
- (c) Privatization, development of capital markets and foreign investment; privatization of pension funds
- (d) Privatization and enterprise development, particularly development of small and medium-sized enterprises
- (e) Broadening of share ownership; forms of participation of small investors and employees in the privatization process
- (f) Privatization, environmental protection and the promotion of environmentally sound technology



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Ad Hoc Working Group on Comparative
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Geneva, 5 April 1994

**DRAFT REPORT OF THE AD HOC WORKING GROUP ON COMPARATIVE EXPERIENCES
WITH PRIVATIZATION ON ITS FOURTH SESSION**

Held at the Palais des Nations, Geneva,
from 5 to 8 April 1994

Rapporteur: Mr. Herbert Dzvimbo (Zimbabwe)

AGENDA ITEMS 1, 2 AND 3

Note for Delegations

This draft report is a provisional text circulated for clearance by delegations.

Requests for amendments - to be submitted in English or French - should be communicated by Friday, 15 April 1994 at the latest to:

The UNCTAD Editorial Section
Room E.8102
Fax No. 907 0056
Tel. No. 907 5657 or 5655

INTRODUCTION

1. In accordance with the UNCTAD calendar of meetings, the fourth session of the Ad Hoc Working Group on Comparative Experiences with Privatization was held at the Palais des Nations, Geneva, from 5 to 8 April 1994.

Opening statements

2. The Deputy to the Secretary-General of UNCTAD and Director-in-charge of the Division on Transnational Corporations and Investment welcomed participants to the fourth and final session of the Ad Hoc Working Group. In looking back over the achievements of the 16 -months period since the Group had begun its very ambitious work programme, he considered that an impressive list of issues had been covered. These included: the role of the State, the objectives of privatization, the strategies and techniques of privatization, and such options as non-divestiture and divestiture, financial mechanisms, competition, privatization of infrastructure and social impacts and social-support measures. The current session would also address privatization of pension funds and environmental issues. The large number of country presentations transmitted to the Group was a clear indication of the strong interest shown by Governments in the work. The informal meetings had encouraged frank exchanges of experience, while panel-led discussions and the high-level of expertise which all participants brought to bear on the debates meant that many difficult questions could be tackled. This candid approach had made it possible to gain useful insights into a wide range of privatization experience reflecting a variety of country situations. The process had allowed wide consensus to develop and converging perceptions to emerge on what constituted viable measures. In the process, factors that were critical to the design and implementation of privatization programmes were identified.

3. While such complex issues could be summarized only at the risk of oversimplification, a few broad conclusions could be attempted. First, privatization was not an end in itself; it was simply a means to an end. Secondly, privatization was essentially a political process, as it involved changing the role of the State. Thirdly, privatization had to be carried out as an economic exercise in a proper macroeconomic and legal context conducive to the development of a sound private sector and assuring maximum benefits from the sale of ownership rights. A firm commitment to private sector development was necessary and in this connection a host of issues had to be addressed. Fourthly, no two privatization were alike. Fifthly, privatization required an efficient public sector, not to do what could be done better by the private sector or by the market but to do what they failed to do. Sixthly, privatization was a social process and social aspects had to be incorporated from the start. Finally, privatization implemented under favourable conditions could provide important benefits. There was evidence that it yielded efficiency gains in terms of better competition and lower prices.

4. The Ad Hoc Working Group had generate an impressive volume of useful documentation during its work. In addition to the 47 country presentations mentioned and the papers prepared by panellists, a cross-country review of national experiences, a directory of national focal points, an annotated bibliography on privatization and a compilation of the contributions of international organizations regarding privatization had been prepared by the UNCTAD secretariat. Extensive summaries of the in-depth discussion and exchanges conducted by the Ad Hoc Working Group had been written up by the secretariat. These appeared in the reports of the previous sessions. Indicative elements for consideration in formulating privatization programmes had also been identified in an attempt to provide broad guidelines and policy options. Drawn essentially from the discussions of the Ad Hoc Working Group, these elements would need to be adapted to the specificity of each country's situation. Lastly, notwithstanding the considerable amount of work carried out, there remained some areas which were relatively unexplored. For example, private sector involvement in infrastructure provision, privatization of the financial sector and the role of privatization in stimulating both foreign investment and mobilizing domestic resources might be examined as these issues had significance especially for developing countries and countries in transition. With respect to these countries, the Ad Hoc Working Group might wish to give consideration to the question of measure by the donor community in support of privatization, including areas where technical cooperation might be strengthened and where recommendations, as appropriate, could be made.

Chapter I

CONSIDERATION OF THE COUNTRY PRESENTATIONS IN THE LIGHT OF
A CROSS-COUNTRY REVIEW BY THE SECRETARIAT OF THE DESIGN,
IMPLEMENTATION AND RESULTS OF THE PRIVATIZATION PROGRAMME

(Agenda item 3)

5. For consideration of this item, the Ad Hoc Working Group had before it the following documentation:

"Design, implementation and results of privatization programmes: a cross-country review of national experiences", Report by the UNCTAD secretariat (TD/B/WG.3/7/Rev.2);

"Issues relating to (a) privatization and the environment and (b) the privatization of pension funds", Note by the UNCTAD secretariat (TD/B/WG.3/7/Rev.2/Add.1).

Country case studies by:

Colombia (TD/B/WG.3/Misc.5/Rev.1)

Germany (TD/B/WG.3/Misc.9/Add.1 and 2)

Fiji (TD/B/WG.3/Misc.40)

"Presentations of national experiences with privatization" by China, Israel, Japan, Romania, Slovenia and the United Kingdom (TD/B/WG.3/Misc.41).

Country statement

6. The representative of Egypt stated that the primary goal of Egyptian national policy on the environment was to achieve sustainable development. This was being

pursued by: (a) establishing environmental standards and instruments of environmental regulation (law No. 4/94 had entered into force); (b) securing environmental quality adequate for the health and well-being of the population while conserving and using natural resources for the benefit of present and future generations; (c) raising public awareness and promoting understanding of the linkages between environment and development; (d) establishing guidelines and procedures for formulating environmental policies explicitly linked to early stages of the privatization process; and (e) cooperating in good faith with other countries to achieve optimal use of transboundary natural resources and prevent or abate environmental pollution. Since the beginning of the 1980s, the policy of Egypt had been aimed at protecting the environment in general. An inter-Ministerial environment unit had been established. In the early 1990s, radical improvements to the economic system were introduced, including a privatization programme in cooperation with the International Monetary Fund and the World Bank, aimed at improving the operation of existing public enterprises, introducing competition and opening the economy to the private sector. Law No. 203/1991 covered reorganization of public-sector entities. The environmental management of privatization was an important part of the privatization process and included the environmental record and liabilities of public enterprises.

7. At its 8th (opening) plenary meeting on 5 April 1994, the Ad Hoc Working Group decided to continue discussion of agenda item 3 in informal meetings.

Chapter II

ELABORATION OF BASIC ELEMENTS FOR CONSIDERATION IN FORMULATING
PRIVATIZATION PROGRAMMES AND PLANS

(Agenda item 4)

8. For consideration of this item the Ad Hoc Working Group had before it the following documentation:

"Indicative elements for consideration) in formulating privatization programmes", Note by the UNCTAD secretariat (TD/B/WG.3/14).

9. At its 8th (opening) plenary meeting on 5 April 1994, the Ad Hoc Working Group decided to continue discussion of agenda item 4 in informal meetings.

[to be completed as appropriate]

Chapter III

ADOPTION OF THE FINAL REPORT OF THE GROUP
TO THE TRADE AND DEVELOPMENT BOARD

(Agenda item 6)

10. For consideration of this agenda item, the Ad Hoc Working Group had before it the following documentation:

"Draft final report of the Ad Hoc Working Group on Comparative Experience with Privatization", text submitted by the Chairman of the Ad Hoc Working Group (TD/B/WG.3/L.7).

[to be completed]

Chapter IV

OTHER BUSINESS

(Agenda item 5)

[to be completed, as appropriate]

Chapter V

ORGANIZATIONAL MATTERS

A. Opening of the session

11. The fourth session of the Ad Hoc Working Group was opened on 5 April 1994 by the Chairman, Mr. Bror Wahlroos (Finland).

B. Election of officers

(Agenda item 1)

12. There being no change in the Bureau which served at the third session, the bureau of the Ad Hoc Working Group at its fourth session was as follows:

<u>Chairman:</u>	Mr. Bror Wahlroos	(Finland)
<u>Vice-Chairmen:</u>	Ms. Taos Feroukhi	(Algeria)
	Ms. Carmen Silva	(Colombia)
	Mr. Thomas Janicki	(Germany)
	Ms. Urszula Calka-Jendroszczyk	(Poland)
	Ms. Prapada Saranusit	(Thailand)
<u>Rapporteur:</u>	Mr. Herbert Dzvimbo	(Zimbabwe)

C. Adoption of the agenda and organization of work

(Agenda item 2)

13. At its 8th (opening) meeting, on 5 April 1994, the Working Group adopted the provisional agenda for the fourth session as approved by the Group at its third session and circulated by the secretariat in TD/B/WG.3/12 and Add.1). The agenda for the fourth session therefore reads as follows:

1. Election of officers

2. Adoption of the agenda and organization of work
3. Consideration of the country presentations in the light of a cross-country review by the secretariat of the design, implementation and results of the privatization programmes ¹
4. Elaboration of basic elements for consideration in formulating privatization programmes and plans
5. Other business
6. Adoption of the report of the Ad Hoc Working Group to the Board.

D. Adoption of the report of the fourth session to the Board

[to be completed]

¹ It is understood that this review will also treat the issue of the privatization of pension funds.

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TRADE AND DEVELOPMENT BOARD
Ad Hoc Working Group on Comparative
Experiences with Privatization
Fourth session
Geneva, 5 April 1994
Agenda item 4

ELABORATION OF BASIC ELEMENTS FOR CONSIDERATION IN
FORMULATING PRIVATIZATION PROGRAMMES AND PLANS

Indicative elements for consideration in
formulating privatization programmes

Amendments to TD/B/WG.3/14

I. GENERAL CONSIDERATION

A. Meaning of privatization

Para. 2, after structural adjustment insert of the public sector of the economy.

Para. 2, last line: after economic insert and commercial

B. Conditions for success

Para. 5, replace subparagraph (e) by the following:

- (e) Establishing a clear but flexible and transparent legal framework for privatization;

C. Privatization strategy

Para. 6, subparagraph (e) after Ensuring insert public

Para. 6, subparagraph (m): after strategic enterprises insert and ensuring that privatization procedures provide for fair treatment for potential investors;

II. FORMS OF PRIVATIZATION

A. Non-divestiture options

Para. 7, insert new subparagraph

(c) Joint ventures between public and private enterprises:

Original subparagraph (c) becomes subparagraph (d)

Para. 8, Subparagraph (e): After threat of competition insert including the risk of bankruptcy.

Para. 9, replace the chapeau by the following:

9. A legal definition of an enterprise, together with a financial audit, is required to establish the liabilities and assets of the enterprise. Restructuring is the process of enhancing the value of the enterprise and can take various forms:

Para. 9, add subparagraph (d) Ensuring that the title to the fixed assets of the privatized enterprise is established prior to divestiture.

Paragraph 10, delete existing text

Original paragraph 11 becomes new paragraph 10

Original paragraph 12 becomes new paragraph 11

Add new paragraph 12

12. However, organizational and especially financial restructuring may help to put the public enterprise on a sound financial and commercial footing, whether it is to be divested or not. Together with corporatization, it may help to enhance its sale value when it is to be divested. When governments undertake restructuring they should bear in mind the cost of restructuring.

B. Divestiture options

Para. 14, replace original text by the following

14. Once a political decision has been taken on a sale, it should be carried out according to a schedule and should not be subject to excessive contingencies.

Para. 16, Replace original text by the following

16. Valuations are important in a variety of contexts: initial public offerings, joint ventures, contributions of assets, corporatizations, evaluating bids based on different structures, and negotiated sales. Valuations may also include the valuation of various types of contingent liabilities (guarantees and environmental liabilities). Where there is only one potential buyer there is no substitute for a careful valuation.

Para. 17, after bearish capital market. add Pricing of a share is a prime determinant of whether or not a share issue should be underwritten.

III. FRAMEWORK FOR PRIVATIZATION

A. Supportive environment

Para. 27, Subparagraph (d): Replace original text by the following

- (d) Creating conditions in which the local private sector and foreign investors can compete on equal terms.

B. Legal framework and machinery for privatization

Para. 28, Subparagraph (b) for public enterprises read public as well as corporatized enterprises,

Add new subparagraph (e)

(e) Social conditions.

Para. 30, at the end of the paragraph Add The implementing agency should be structured so as to enable it to act independently of vested interests and pressure groups. In order to ensure the transparency of privatization, in particular in the area of the valuation of assets and of the choice of buyers, the legal framework may provide for the establishment of an independent commission or an ad hoc committee for supervising and/or advising on the sales procedures.

C. Competition and regulation

Para. 34, After However delete where competition is possible

Para. 36, subparagraph (a), after Price insert and price structure

Para. 37, replace subparagraph (f) by the following:

(f) Rationalizing the structures for related industries in order to keep the number of regulatory bodies to a minimum, and ensuring that these bodies have a high technical standard.

Para. 38, replace original text by the following:

38. When privatizing infrastructures, a negotiated contractual concession may be preferable to a general regulation, giving the investor a more predictable framework. Issues such as price or rate of return regulation, and also provisions for monitoring of security and quality of service should be normally included in the contracts.